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Application Serial No. 10/588,171
Reply to office action of October 29, 2007

MAR 28 2008 PATENT
Docket: CU-4989

Amendments To The Drawings:

The attached drawing sheet 3/4 includes changes to FIG. 5. The Examiner is requested to replace the original sheet 3/4 of FIGS. 4 and 5.

Attachment: Replacement Sheet 3/4 of FIGS. 4 and 5

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REMARKS/ARGUMENTS

Reconsideration is respectfully requested.

Claims 1-7 are pending before this amendment. By the present amendment, claim 6 is canceled without prejudice, claims 1 and 7 are amended for purposes of clarification. No new matter has been added.

In the office action, the specification stands objected to because of the following informalities: a) the individual components, "medical assist device" and "implemented medical device" are both designated by the reference number "2" (pp 4, lines 9 & 17), and b) the word "minimised," is spelled wrong and should be changed to "minimized," (pp 9, lines 17-18).

The Applicant has corrected paragraph [0019] in the specification to replace the term "medical assist device" with the term "implanted medical device," to be consistent with the other reference to "implanted medical device 2." The Applicant has corrected paragraph [0041] in the specification to replace correct the spellings of "minimised" and "minimization" to "minimized" and "minimization," respectively. Accordingly, the Applicant respectfully believes that the bases for these objections have been removed. Therefore, the Examiner is respectfully requested to withdraw these objections.

In the office action, the specification stands objected to because of improper use of the registered trademarks DACRON®, NUSIL®, KEVLAR® and VELCRO®. The has corrected paragraphs [0023], [0030], [0032], [0033], [0035], [0036], [0037], [0041], [0048], [0049] and [0050] in the specification to correct these trademark uses. Accordingly, the Applicant respectfully believes that the basis for this objection has been removed. Therefore, the Examiner is respectfully requested to withdraw this objection.

In the office action, the drawings stand objected to because they fail to show "thin region 20" as described in this specification (pp 8, line 11). The Applicant's amendment of paragraph [0035] has replaced "thin region 20" with "thin region 6" to corrected a typographical error. Accordingly, the Applicant respectfully believes that the basis for

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this objection has been removed. Therefore, the Examiner is respectfully requested to withdraw this objection.

In the office action, the drawings stand objected to because in Respect to Figure 5, reference numbers "33" and "35" seem to be pointing to the same component. The Applicant submits here with Replacement Sheet 3/4. In this replacement sheet, the Applicant has corrected the reference lines for references "33" and "35." Previously, the line for "33" extended too far. With the amendment, it now terminates appropriately on the lower connector. Previously, the line for "35" did not extend far enough. With the amendment, it now terminates appropriately in the lead restraint. Accordingly, the Applicant respectfully believes that the basis for this objection has been removed. Therefore, the Examiner is respectfully requested to withdraw this objection.

In the office action, claims 6 & 7 stand rejected under 35 USC 101 because the claimed invention is directed to non-statutory subject matter, due to the claims reciting a part of the human body. By the present amendment, Applicant has cancelled Claim 6 and amended claim 7 to remove this recitation. Accordingly, the Applicant respectfully believes that the basis for this rejection has been removed. Therefore, the Examiner is respectfully requested to withdraw this rejection.

Claims 1-2 & 4-5 stand rejected by the Examiner under 35 USC 102(b) with regard to US 5904646 ("Jarvik"). Present independent claim 1 requires a lead having first and second portions, wherein the second portion has a diameter substantially smaller than the diameter of the first portion. The Examiner contends that Jarvik discloses this feature and directs the reader to Figure 6 of Jarvik.

We respectfully submit that Figure 6 has been misinterpreted by the Examiner. As described at Column 2, lines 60-63, Figure 6 is a sectional view of Figure 5. In Figure 5, the corresponding "first portion" of Jarvik is denoted by 57 (the "external cable") and the corresponding "second portion" of Jarvik is denoted by 33 (the "internal cable"). As seen in Figure 5 (and also Figure 2), the "internal cable" 33 has substantially the same diameter as the "external cable" 57. It may appear to the

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Examiner as though Figure 6 illustrates a relatively smaller internal cable, because Figure 6 is a sectional view and therefore does not show the entire lead. In terms of written description, Jarvik is entirely silent on the thickness, relative or otherwise, of either the internal cable (33) or the external cable (57). We therefore consider it difficult to form any view from reading Jarvik other than the view that the internal and external cables are of substantially the same thickness.

Furthermore, we submit that it would not be necessary for Jarvik to have leads of different diameter. One of the purposes of the difference in diameter of the present invention is that the relatively smaller diameter lead portion (the second portion) itself exits a hole in the skin. Being smaller, the exit can be smaller. In Jarvik, the lead itself does not exit the skin; a "post" (3) which forms part of the connector exits the skin.

Therefore, the Applicant respectfully asserts that this anticipation rejection based on Jarvik should be withdrawn because Jarvik does not teach each and every claimed limitation of the present invention as required in the base claim 1. Since dependent claims further limit their respective base claim, then the Applicant respectfully asserts that this rejection of claims 2, 4 and 5 should be withdrawn.

For sake of completeness, we also respectfully submit that the subject matter of claim 2 is not anticipated by Jarvik. Claim 2 defines the external ("first") portion as including a shielding layer. Jarvik on the other hand describes, at Column 4, lines 41 to 44, a stainless steel spring or spring-like coil of absorbable material for wrapping the wiring (72) that is to be implanted internally of the patient. This is contrary to the internal shielding layer feature defined in claim 2. Also, we submit that the purpose of the stainless steel spring or spring-like coil of absorbable material for wrapping the internal wiring of Jarvik is not for shielding. Jarvik teaches further that the wrapping may be absorbed by the body and replaced with the body's own tissue to hold the wiring together (Column 4, lines 54 to 60). Referring again to Jarvik's reference to the "stainless steel spring", the only teaching Jarvik provides is that the spring is a "coil of retaining material" (Column 4, line 42), which does not constitute "shielding" as required

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by claim 2. Furthermore, as illustrated in Figure 3, the "coil of retaining material" denoted by reference numeral 74 is quite spread out and could not function sufficiently as "shielding", let alone a shielding layer. We submit therefore that it is inappropriate to argue that the retaining coil 74 could be considered a "shielding layer" and that Jarvik does not anticipate the feature of claim 2.

In the Office Action, claim 3 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Jarvik in view of US 4699157 ("Shonk"). The Applicant respectfully traverses this rejection because the Jarvik and Shonk references in combination do not teach, motivate or suggest all of the required elements of the presently claimed invention. The above arguments against the 35 USC 102 rejections are equally applicable here in that the Jarvik reference does not teach each and every claimed limitation of the present invention. Furthermore, the Shonk reference is used only to disclose textured surface which does not cure the deficiency of Jarvik, as stated by the Examiner. Therefore, this obviousness rejection of claim 3 should be withdrawn.

In the Office Action, claim 7 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Jarvik in view of US 5449381 ("Imran"). The Applicant respectfully traverses this rejection because the Jarvik and Imran references in combination do not teach, motivate or suggest all of the required elements of the presently claimed invention. The above arguments against the 35 USC 102 rejections are equally applicable here in that the Jarvik reference does not teach each and every claimed limitation of the present invention. Furthermore, the Imran reference is used only to disclose a flexible, elongated member that extends through a hole in a skin layer of the body, which the Examiner states is not caught by Jarvik. In addition, we reiterate our discussion above with respect to the shielding layer feature defined in claim 2, which is relevant to claim 7. We respectfully submit that Jarvik does not teach, nor suggest, the "shielded portion" defined by claim 7. Therefore, this obviousness rejection of claim 7 should be withdrawn.

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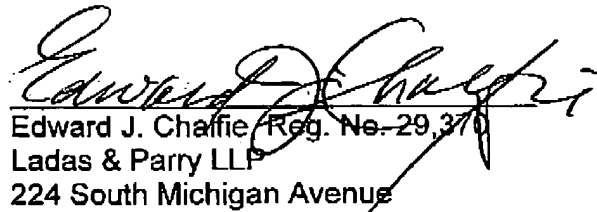
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For the reasons set forth above, the Applicant respectfully submits that claims 1-5 and 7, now pending in this application, are in condition for allowance. Accordingly, the Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections and objections and earnestly solicit an indication of allowable subject matter. The Applicant respectfully requests a Notice of Allowance in the next action.

This amendment is considered to be responsive to all points raised in the office action. Should the Examiner have any remaining questions or concerns, the Examiner is encouraged to contact the undersigned attorney by telephone to expeditiously resolve such concerns.

Respectfully submitted,

Dated: March 30, 2008


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APPENDIX OF ATTACHMENTS

**Replacement Sheet 3/4 of FIGS. 4 and 5
(a total of 1 sheet of drawings)**